

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HOWARD MITCHELL, Administrator
of the Estate of Bernice Alder,

Plaintiff,

MEMORANDUM & ORDER
19-CV-6393 (EK) (ST)

-against-

EUNICE MAUD BROWNIE,

Defendant.

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ERIC KOMITEE, United States District Judge:

The Court has received Magistrate Judge Steven L. Tiscione's Report and Recommendation (R&R) dated March 5, 2021. ECF No. 21. Judge Tiscione recommends that non-party U.S. Specialty Insurance Company's motion to stay this action be denied, Plaintiff's motion for default judgment against Eunice Maud Brownie be denied, and the case be dismissed for lack of subject matter jurisdiction pursuant to the probate exception to diversity jurisdiction. Neither party has filed objections and the time to do so has expired. Accordingly, the Court reviews the R&R for clear error on the face of the record. See Advisory Comm. Notes to Fed. R. Civ. P. 72(b); accord *Gesualdi v. Mack Excavation & Trailer Serv., Inc.*, No. 09-CV-2502, 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010). Having reviewed the

record, the Court finds no clear error. The Court adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1).

Therefore, the case is dismissed for lack of subject matter jurisdiction. U.S. Specialty Insurance Company's motion to stay the action is denied and Plaintiff's motion for default judgment is also denied. The Clerk of Court is respectfully directed to enter judgment and close the case.

SO ORDERED.

/s Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: March 24, 2021
Brooklyn, New York